

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons that follow.

Claims 19-28 and 30-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,678,452 (“Bloechl”) in view of WO 01/64594 (“Beyeler”) and EP 0 673 895 (“Lemaire”). This rejection is respectfully traversed.

The rejection should be withdrawn because Beyeler is not prior art to at least some of the claims. In particular, claims 19-25, 27, 28, and 30-34 are supported by the parent application, 09/693,445, and thus are entitled to an effective filing date of October 20, 2000. Therefore, Beyeler is not prior art for these claims and cannot be used to reject them. In regard to the remaining references, Bloechl and Lemaire, Applicants explained why the claims are patentable over these references in the Amendment and Reply Under 37 C.F.R. § 1.111 filed March 8, 2005.

To the extent the Office should determine that any claim (such as claim 26) is not entitled to an effective filing date of October 20, 2000, the rejection should be withdrawn because there is no motivation to combine Bloechl, Beyeler, and Lemaire. Moreover, none of the cited references teach the optical device of claim 26 having the materials specified therein. The Office contends that claim 26 “only deal[s] with the use of preferred material.” Office Action at page 3. The Office cites no legal basis for its implicit contention that “preferred material[s]” are per se not patentable. Instead, it is the burden of the Office to show that the optical device is unpatentable. Having applied no reference showing use of these materials, that burden has not been met. Withdrawal of the rejection is respectfully requested.


Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is believed that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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